

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

LUDWERD DEL CASTILLO-GUZMAN, et al.)
Plaintiffs,)
v.)
TRIPLE CANOPY, INC.,)
Defendant.)

2015 JUN 24 P 2:00
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA
1:15cv799
CHH/MSN
Removed from the Circuit Court of Fairfax
County, Virginia, Case No. 2015-06197

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendant Triple Canopy, Inc. (“Defendant”), by and through counsel, hereby removes this action from the Circuit Court of Fairfax County, Virginia, to the United States District Court for the Eastern District of Virginia. Removal is proper because this Court has original jurisdiction over issues in the Complaint under 28 U.S.C. § 1331 and supplemental jurisdiction over all other issues in the Complaint under 28 U.S.C. § 1367.

I. BACKGROUND

1. On May 11, 2015, Plaintiffs Ludwerd Del Castillo-Guzman, Alejandro Cerna-Motta, Juan Castro-Rugel, and German Tamani-Fasabi (“Plaintiffs”) filed the Complaint against Defendant in a civil action in the Circuit Court for Fairfax County, Virginia, Case No. 2015-06197. Copies of all documents delivered to Defendant in this case are attached hereto as Exhibit A.

2. Plaintiff sent Defendant a Request for Waiver of Service of Process on June 4, 2015, which Defendant received on June 5, 2015 and executed and returned on June 24, 2015. The executed waiver of service of process is attached hereto as Exhibit B.

3. Defendant's Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) and Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 348–49 (1999), because the Notice of Removal was filed no later than thirty (30) days after Defendant received the Complaint from Plaintiff. 28 U.S.C. § 1446(b)(1); Fed. R. Civ. P. 6(a)(1)(C).

II. FEDERAL QUESTION JURISDICTION

4. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 because it involves claims and/or issues arising in whole or in part under the Constitution, laws, or treaties of the United States.

5. More specifically, the Complaint involves a federal question because Count IV avers a claim pursuant to the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, and/or the regulations promulgated thereunder by the United States Department of Labor.

III. SUPPLEMENTAL JURISDICTION

6. The remaining claims in the Complaint all allege a failure to pay minimum wage or failure to pay wages under Virginia state or contract law. These claims are so related to the federal question claim that they form part of the same case or controversy under Article III of the Constitution of the United States. 28 U.S.C. § 1367(a).¹ The exceptions to the exercise of supplemental jurisdiction provided in 28 U.S.C. § 1367(c) are not applicable.

IV. VENUE

7. Venue is proper in this Court because this District embraces the Fairfax County Circuit Court, the forum from which the case has been removed. 28 U.S.C. § 1441(a).

¹ The Court may also have original subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the Plaintiffs and Defendant are likely diverse from one another, and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. This action, however, is not removable "solely" on the basis of diversity. 28 U.S.C. § 1441(b)(2).

V. **NOTICE**

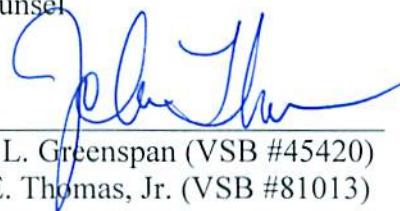
8. Concurrent with filing this Notice of Removal, Defendant will file a Notice of Removal to Federal Court with the Clerk of the Circuit Court of Fairfax County and will attach a copy of this Notice of Removal thereto. A copy of the Notice of Removal to Federal Court is attached hereto as **Exhibit C**.

VI. **MISCELLANEOUS**

9. This action has not previously been removed to federal court.

TRIPLE CANOPY, INC.

By Counsel



David L. Greenspan (VSB #45420)

John E. Thomas, Jr. (VSB #81013)

McGuireWoods LLP

1750 Tysons Boulevard

Suite 1800

Tysons Corner, Virginia 22102

(703) 712-5407 (telephone)

(703) 712-5217 (facsimile)

dgreenspan@mcguirewoods.com

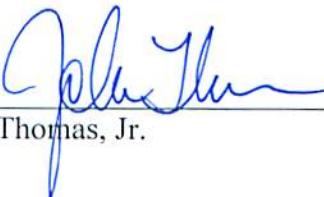
jethomas@mcguirewoods.com

Counsel for Defendant Triple Canopy, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2015, I filed the foregoing with the Court and delivered a copy of the foregoing by hand and electronic mail upon:

Meredith M. Ralls (VSB #82548)
Katherine Martell (VSB #77027)
10615 Judicial Drive, Suite 101
Fairfax, Virginia 22030
Tel: 703-385-6868
Fax: 703-385-7009
mralls@firstpointlaw.com



John E. Thomas, Jr.